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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,581	08/06/2001	Paul McAlinden	INTL-0651-US (P12392)	2709
7590 11/30/2004 Timothy N. Trop TROP, PRUNER & HU, P.C. 8554 KATY FWY, STE 100 HOUSTON, TX 77024-1805			EXAMINER NAWAZ, ASAD M	
			ART UNIT 2155	PAPER NUMBER

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/923,581

Applicant(s)

MCALINDEN, PAUL

Examiner

Asad M Nawaz

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on August 6, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☒ Claim(s) 1-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-24 are presented for examination.

#### ***Claim Objections***

2. Claims 1-8 and 9-16 are objected to because of the following informalities: Claim 1 recites "A method comprising:...". The claim language should be changed to "A computer-implemented method....". Claim 9 recites "An article comprising a medium storing ...". The claim language should be changed to "An article/product comprising a computer-readable medium storing...". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Andreakis et al (US Patent No. 6,816,895), hereinafter referred to as Andreakis.

As to claim 1, Andreakis teaches a method comprising: transferring software from a server to a client; and enabling the software to determine the capabilities of the

Art Unit: 2155

client and to provide information back to the server about those client capabilities.

(Abstract; col1, lines 15-41; col 2, lines 1-18; col 4, lines 15-29; col5, lines 32-35)

Claims 9 and 17 are essentially the product and system for the method of claim 1 above, and thus are rejected under the same rationale.

As to claim 2, Andreakis teaches the method of claim 1 including transferring the software over a wireless network. (col 3, lines 17-20 and 49-51)

Claims 10 and 19 are essentially the product and system for the method of claim 2 above, and thus are rejected under the same rationale.

As to claim 3, Andreakis teaches the method of claim 1 including transferring the software over a wired network. (col 3, lines 17-20 and 49-51)

Claims 11 and 20 are essentially the product and system for the method of claim 3 above, and thus are rejected under the same rationale.

As to claim 4, Andreakis teaches the method of claim 1 including transferring the software over a telephone network. (col 3, lines 21-39)

Claims 12 and 21 are essentially the product and system for the method of claim 4 above, and thus are rejected under the same rationale.

As to claim 6, Andreakis teaches the method of claim 1 including determining characteristics of the client in order to select the appropriate software to transfer from server to client. (col 1, lines 59-63; col 4, lines 3-14 and 21-39)

Claims 14 and 22 are essentially the product and system for the method of claim 6 above, and thus are rejected under the same rationale.

As to claim 7, Andreakis teaches the method of claim 6, including obtaining classmark information about client. (col 1, lines 59-63; col 4, lines 3-14 and 21-39)

Claims 15 and 23 are essentially the product and system for the method of claim 7 above, and thus are rejected under the same rationale.

As to claim 8, Andreakis teaches the method of claim 7 including using the classmark information to select software to transfer from the server to the client. (col 1, lines 59-63; col 4, lines 3-14 and 21-39)

Claims 16 and 24 are essentially the product and system for the method of claim 8 above, and thus are rejected under the same rationale.

As to claim 18, Andreakis teaches the system of claim 17 including at least one client. (Abstract; Fig 1)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over official notice in view of Microsoft Computer Dictionary (Fifth Edition).

As to claim 5, Andreakis teaches the method of claim 1 but does not teach transferring the software over a local area network. However, Andreakis does teach the use of networks that are wired, wireless, GSM, DCS, WCDMA. It would have been

Art Unit: 2155

obvious for one in the ordinary skill in the art to use a Local Area Network where the aforementioned networks are used because a LAN is also used to interconnect nodes by a communications link enabling any device to interact with another.

Claim 13 is rejected under similar rationale.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asad M Nawaz whose telephone number is (703) 305-0094. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



AMN



**HOSAIN ALAM**  
**SUPERVISORY PATENT EXAMINER**